

IC 15-7

ARTICLE 7. MISCELLANEOUS

IC 15-7-1

Chapter 1. Agricultural Cooperatives

IC 15-7-1-1

Purpose; legislative declaration

Sec. 1. (a) In order to promote, foster, and encourage the intelligent and orderly production and marketing of agricultural products through cooperation; and to eliminate speculation and waste; and to make the distribution of agricultural products between producer and consumer as direct as can be efficiently done; to stabilize the marketing of agricultural products; and to provide for the organization and incorporation of agricultural cooperative associations and societies; this chapter is enacted.

(b) It is here recognized that agriculture is characterized by individual production in contrast to the group or factory system that characterizes other forms of industrial production, and that the ordinary form of corporate organization permits industrial groups to combine for the purpose of group production and the ensuing group marketing and that the public has an interest in permitting farmers to bring their industry to the high degree of efficiency and merchandising skill evidenced in the manufacturing industries; and that the public interest demands that the farmer be encouraged to attain a superior and more direct system of marketing in the substitution of merchandising for the blind, unscientific, and speculative selling of crops.

(Formerly: Acts 1925, c.20, s.1; Acts 1931, c.34, s.1.) As amended by P.L.183-1983, SEC.131.

IC 15-7-1-2

Definitions

Sec. 2. (a) The term "agricultural products" shall include horticultural, viticultural, forestry, dairy, livestock, grain, poultry, bee, and any other farm products.

(b) The term "member" with respect to a nonstock, membership association shall be those admitted in accordance with the bylaws, and with respect to an association having capital stock shall be the holders of voting stock therein.

(c) The term "association" means any corporation organized or brought under this chapter.

(d) The term "person" shall include natural persons, firms, partnerships, business trusts, limited liability companies, corporations, executors, administrators, receivers, and bodies politic or political subdivisions.

(e) Associations organized or brought under this chapter shall be termed and deemed to be nonprofit corporations within the meaning of this chapter, and in interpreting the laws of this state in reference to associations organized or brought under this chapter.

(f) Terms not defined in this chapter are defined in IC 23-1.

(g) For the purposes of brevity and convenience, this chapter may be indexed, referred to, and cited as the Indiana Agricultural Cooperative Act.

(Formerly: Acts 1925, c.20, s.2; Acts 1931, c.34, s.2; Acts 1939, c.151, s.1; Acts 1949, c.167, s.1.) As amended by P.L.183-1983, SEC.132; P.L.149-1986, SEC.42; P.L.8-1993, SEC.244.

IC 15-7-1-3

Eligibility to form cooperative association

Sec. 3. Five (5) or more persons engaged in the production of agricultural products, or two (2) or more associations which are organized or brought under the provisions of this chapter, or which are organized under any other law of this State or under the laws of any other state or territory of the United States or of the District of Columbia, and which are operated on a cooperative basis for the mutual benefit of their members and/or other patrons as producers or associations of such producers, may form an association under this chapter.

(Formerly: Acts 1925, c.20, s.3; Acts 1939, c.151, s.2; Acts 1971, P.L.201, SEC.1.)

IC 15-7-1-4

Authorized activities

Sec. 4. An association may be organized to engage in any activity in connection with the production, marketing or selling of the agricultural products of its members and others, or with the harvesting, preserving, drying, processing, canning, packing, grading, storing, handling, shipping, or utilization thereof, or the manufacturing or marketing of the by-products thereof; or in connection with the manufacturing, selling or supplying to its members and others of machinery, equipment or supplies, or in the financing of the above enumerated activities; or in performing or furnishing services of economic or educational nature, on a cooperative basis for those engaged in agriculture, or in any one or more of the activities specified herein.

(Formerly: Acts 1925, c.20, s.4; Acts 1931, c.34, s.3.)

IC 15-7-1-5

Powers of incorporated associations

Sec. 5. Each association incorporated under this chapter shall have the following powers:

(a) To engage in any activity in connection with the producing, marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, or utilization of any agricultural products produced or delivered to it by its members or others, or the manufacturing or marketing of the by-products thereof, or any activity in connection with the manufacturing, producing, processing, procuring, purchasing or supplying to its members or others supplies, machinery or

equipment; or in the financing of any such activities; or in performing or furnishing economic, educational or other services; or in any one or more of the activities specified in this section.

(b) To transact business with and perform services for nonmembers in an amount not greater in value than the total amount of business transacted with and services performed for members in the same fiscal year.

(c) To borrow money without limitation as to amount of corporate indebtedness or liability.

(d) To act as the agent or representative of any member or members or others in any of the above mentioned activities; and to make advances to members and others.

(e) To purchase or otherwise acquire; and to hold, own and exercise all rights of ownership in, and to sell, transfer or pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the warehousing or handling or marketing of any of the products handled by the association.

(f) To establish and accumulate reserves and surplus.

(g) To buy or otherwise acquire, hold and exercise all privileges of ownership, over such real and personal property as may be necessary, convenient or incidental to the conduct and operation of the business and activities of the association.

(h) To establish, secure, own and develop patents, trademarks and copyrights, and to dispose of the same.

(i) To do each and every thing necessary or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the subjects herein enumerated; or conducive to or expedient for the interest or benefit of the association; and to contract accordingly; and, in addition, to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and, in addition, any other rights, powers and privileges heretofore or hereafter granted by the laws of this state or for-profit or not-for-profit corporations, except such as are inconsistent with the express provisions of this chapter; and to do any such thing anywhere.

(j) To recover, after a period of two (2) years, any unclaimed stocks, dividends, capital credits, patronage refunds, utility deposits, membership fees, account balances, or book equities for which the owner cannot be found and are the result of distributable savings of the association returned to the members on a pro rata basis.

(Formerly: Acts 1925, c.20, s.5; Acts 1931, c.34, s.4; Acts 1949, c.167, s.2; Acts 1971, P.L.201, SEC.2.) As amended by Acts 1981, P.L.106, SEC.3.

IC 15-7-1-6

Eligibility for membership

Sec. 6. (a) Under the terms and conditions prescribed in the

bylaws adopted by it, an association may admit as members, or issue common and voting stock to, such individuals and/or political subdivisions of the state of Indiana, as meet the requirements of subsection (b) and/or such associations as meet the requirements of subsection (c).

(b) Such individuals or political subdivisions must be engaged in the production of agricultural products. A lessor or landlord of land used for such production or any natural person devoting a substantial part of his time in assisting others to produce agricultural products, whether employed by a farmer, or an agricultural cooperative corporation or an association, shall be considered to be so engaged. Except as above provided, the holders of common stock of any association limited by its articles of incorporation to one (1) or more of the particular agricultural services shall be such producers of agricultural products as use the articles or services to which the activities of the association are so limited.

(c) One (1) association organized or brought hereunder, or under the agricultural law of another state of the United States, or which complies with 7 U.S.C. 291, 292, whether incorporated in or outside of the United States and with acts amendatory thereof or supplementary thereto, may become a member or stockholder of any association or associations organized hereunder; and any corporation, however organized, which is lawfully engaged in the production of agricultural products, either as owner or lessor, or as lessee, of land used for the production of agricultural products, may become a stockholder or member in any association organized hereunder the business of which to an amount in value exceeding one-half (1/2) thereof consists of the patronage of natural persons who are direct producers of agricultural products.

(d) If any member of an association organized under this chapter be other than a natural person, such member may be represented by any individual, duly authorized in writing, by such corporate member.

(Formerly: Acts 1925, c.20, s.6; Acts 1931, c.34, s.5; Acts 1935, c.284, s.1; Acts 1939, c.151, s.3.) As amended by P.L.183-1983, SEC.133.

IC 15-7-1-7

Articles of incorporation

Sec. 7. (a) The incorporators of an association to be formed under this chapter shall execute and file articles of incorporation setting forth: (1) the name of the proposed association; (2) the purpose of purposes for which it is formed; (3) the period during which it is to continue to exist, if the period is to be limited; (4) the post office address of its principal office and the name and post office address of its resident agents; (5) if organized without capital stock, whether the property rights and interest of the members are to be equal or unequal; and if unequal, provisions under and by which the property rights and interests of the respective members are to be determined and fixed; (6) if organized with capital stock, the total number of

shares which the association shall have authority to issue; whether all or part thereof shall have a par value, and if so, the number and par value of such shares; and whether all or part thereof shall be without par value, and if so, the number of such shares; if the shares are to be divided into classes or kinds, the number and par value, if any, of the shares of each class and, subject to the limitations provided in this chapter with respect to issuance of voting stock, either a statement of the relative rights, preferences, limitations and restrictions of each class, or a provision expressly vesting authority in the board of directors, to determine the relative rights, preferences, limitations and restrictions of each class by resolution or resolutions adopted prior to the issuance of any shares of such class; and if the shares of any class are to be issuable in series, descriptions of the several series, and subject to the limitation provided in this chapter with respect to the issuance of voting stock, a statement of the relative rights, preferences, limitations and restrictions of each series, or a provision expressly vesting authority in the board of directors to determine the relative rights, preferences, limitations and restrictions of each series by resolution or resolutions adopted prior to the issuance of any of the shares of such series; (7) the number of directors constituting the initial board of directors of the association; (8) the names and post office addresses of the first board of directors; (9) the names and post office addresses of the incorporators; and (10) any other provisions, consistent with the laws of this state, for the regulation of the business and conduct of the affairs of the association, and for the purpose of creating, defining, limiting or regulating the powers of the association, of the directors, of the members, and of the shareholders of any class or classes of shareholders. The articles of incorporation shall be prepared and signed in duplicate by the incorporators and acknowledged by at least one (1) of them before a notary public, and shall be presented in duplicate to the secretary of state at his office, accompanied by the fees prescribed by this chapter.

(b) Upon presentation of the articles of incorporation, if the secretary of state finds that they conform to law, he shall endorse his approval upon the duplicate copies of the articles, and, when all fees have been paid as required by law, shall file one (1) copy of the articles in his office and issue a certificate of incorporation to the incorporators. The certificate of incorporation, together with the remaining copy of the articles of incorporation bearing the endorsement of his approval, shall be returned by him to the incorporators or their representative.

(c) Upon the issuance of the certificate of incorporation by the secretary of state, the corporate existence of the association shall begin and all subscriptions to membership and/or for shares of the association shall be deemed to be accepted by the association, and the subscribers shall be deemed to be members and/or shareholders of the association. The certificate of incorporation issued by the secretary of state shall be conclusive evidence of the fact that the association has been duly incorporated and of its right to transact

business and to incur indebtedness.

(Formerly: Acts 1925, c.20, s.7; Acts 1931, c.34, s.6; Acts 1939, c.151, s.4; Acts 1949, c.167, s.3; Acts 1971, P.L.201, SEC.3.)

IC 15-7-1-8

Procedure for amending articles, merging or consolidating, or dissolving

Sec. 8. An association may amend its articles of incorporation, merge or consolidate with one or more other associations or corporations, effect special corporate transactions as defined in IC 23-1, or dissolve by following the procedures specified in IC 23-1, except:

(1) that an amendment to the articles of incorporation of an association organized or brought under this chapter or an agreement of merger or consolidation to which an association organized or brought under this chapter is a party may be adopted, if the voting rights of the members are equal, by the affirmative votes of the majority of the members entitled to vote with respect thereto and voting at the meeting duly called for that purpose or, if the voting rights of the members are not equal, by the affirmative votes of the majority of the votes cast by the members entitled to vote with respect thereto and voting at the meeting duly called for that purpose; and

(2) that a special corporate transaction or dissolution of an association organized or brought under this chapter may be authorized, if the voting rights of the members are equal, by the affirmative votes of three-fourths (3/4) of the members entitled to vote with respect thereto and voting at the meeting duly called for that purpose or, if the voting rights of the members are not equal, by the affirmative votes of three-fourths (3/4) of the votes cast by the members entitled to vote with respect thereto and voting at the meeting duly called for that purpose.

(Formerly: Acts 1925, c.20, s.8; Acts 1939, c.151, s.5; Acts 1949, c.167, s.4; Acts 1971, P.L.201, SEC.4.) As amended by P.L.149-1986, SEC.43.

IC 15-7-1-9

Bylaws; adoption or amendment; scope

Sec. 9. Each association organized or brought under the provisions of this chapter shall, within thirty (30) days after its incorporation, or after its acceptance of the provisions of this chapter, adopt a code of bylaws. The power to adopt, make, alter, amend or repeal the bylaws shall be vested in the board of directors, unless otherwise provided in the articles of incorporation. The bylaws may contain any provisions for the regulation and management of the business and affairs of the association that are not inconsistent with the articles of incorporation and the laws of this state, including provisions respecting:

(a) The time and place of holding, and the manner of calling and conducting meetings of members and directors;

(b) The number of members that shall constitute a quorum at a meeting of the members;

(c) The number of directors that shall constitute a quorum at a meeting of the directors;

(d) The right of members to vote by proxy, by mail, or by delegates elected by members in their respective districts, or by any one or more of such methods;

(e) The number of directors, the qualifications, the time, place and manner of their election, and the terms for which they shall hold office;

(f) The powers, duties, tenure and qualifications of officers of the association, and the time, place and manner of electing them;

(g) The creation and appointment of executive and other committees, and the number of members thereof and their powers;

(h) The amount of entrance, organization and membership fees, if any; and the manner and method of collection of same, and the purposes for which they may be used;

(i) The amount which each member is required to pay annually or from time to time, if any, to carry on the business of the association, the charge, if any, to be paid by each member for services rendered by the association to him and the time of payment and manner of collection thereof; any requirements made or imposed on members to enter into contracts with the association for the marketing of their products or for the purchasing of their supplies, machinery or equipment, or both;

(j) The qualifications for membership in the association, and the conditions precedent to membership; the method, time and manner in which a member can withdraw from membership; the conditions upon which and the time when the membership of any member shall cease; the automatic suspension of the voting rights of a member when he ceases to be eligible for membership in the association; the mode, manner and effect of the expulsion of a member; the manner of determining the value of a member's interest or shares when expelled, or upon his death or withdrawal from membership; the manner in which the interest or shares of a member can be transferred or assigned; and the time and manner in which a member's interest or shares may be redeemed by the association; and

(k) Penalties for violation of the bylaws.

(Formerly: Acts 1925, c.20, s.9; Acts 1931, c.34, s.7; Acts 1971, P.L.201, SEC.5.)

IC 15-7-1-10

Meetings; bylaw provisions; special meetings; notice of meetings and statement of purposes

Sec. 10. In its by-laws, each association shall provide for one (1) or more regular meetings annually. The board of directors shall have the right to call a special meeting at any time; and ten per cent (10%) of the members or stockholders may file a petition stating the specific business to be brought before the association and demand a special meeting at any time. Such meeting must thereupon be called

by the directors. Notice of all meetings, together with a statement of the purposes, shall be mailed to each member, at least ten (10) days prior to the meeting: Provided, however, that the by-laws may require instead that such notice may be given by publication in a newspaper of general circulation, published at the principal place of business of the association.

(Formerly: Acts 1925, c.20, s.10.)

IC 15-7-1-11

Board of directors; election; powers and duties; restrictions

Sec. 11. (a) The business and affairs of the association shall be managed by a board of directors of not less than five (5) directors. Subject to such limitation, unless otherwise provided in the articles of incorporation, the number of directors shall be as fixed by the bylaws, except as to the number constituting the initial board of directors, which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the bylaws, but no decrease shall have the effect of shortening the term of an incumbent director. In the absence of articles of incorporation or bylaws which fix the number of directors, the number shall be the same as stated in the articles of incorporation for the initial board of directors.

(b) The directors, except as herein otherwise provided, shall be elected by the members at the annual meeting of the members and may, if so provided in the bylaws, be elected for terms of office that expire at different times, but no term of office shall continue for longer than three (3) years. In the absence of any such provision in the bylaws, each director, except the first board of directors, shall be elected for a term of one (1) year and hold office until his successor is elected and qualified. The first board of directors as named in the articles of incorporation shall hold office until the first annual meeting of the members.

(c) The territory served by an association may be divided into districts and the directors elected according to districts. In such case, the bylaws shall specify the number of directors to be elected in each district, the manner and method of reapportioning the directors and of redistricting the territory served by the association. The bylaws may provide that primary elections be held in each district to elect the directors apportioned to such district and that the result of all such primary elections may be ratified by the members at the next annual or special meeting of the members of the association or may be considered as final.

(d) One (1) or more directors may be appointed by any public official or commission or by the other directors elected by the members or their delegates. Such directors shall represent primarily the interest of the general public in the association but shall have the same powers and rights as other directors. Such directors shall not number more than one-fifth (1/5) of the entire number of directors.

(e) An association may provide a fair remuneration for the time actually spent by its officers and directors in its service and for the

service of the members of its executive and other committees. No director during the term of his office, shall be a party to a contract for profit with the association differing in any way from the business relations accorded other members or patrons of the association.

(f) If the bylaws provide for an executive committee all of the functions and powers of the board of directors may be delegated to such committee, subject to the general direction and control of the board.

(g) When a vacancy on the board of directors occurs, other than by expiration of term of office, the remaining members of the board may fill the vacancy by a majority vote of such remaining members, unless the bylaws provide for the election of directors by districts. In such case, the board of directors may call a special meeting of the members in that district to fill the vacancy or may fill such vacancy as in the case of any other vacancy. A director who is elected or appointed by the board of directors to fill a vacancy on the board shall serve until the next annual or special meeting of the members.

(h) Each director shall, during his term of office, be a citizen of the United States; and each director, other than a public director, shall be engaged or have a direct interest in the production of agricultural products.

(i) An association may provide in its bylaws that no person shall be eligible for election as a director unless he is a member or a patron of the association;

(j) An association may provide in its bylaws that no person shall be eligible for election as a director unless and until he has first paid any indebtedness owed by him to the association.

(k) The board of directors shall require that a report be presented to the board, at such intervals as it may determine and fix, but not less often than semi-annually, showing the amount of indebtedness owned to the association by each director, officer and employee at the close of such period, the amount of stock, membership capital, or credits for the purchase of stock or membership capital shown on the books of the association as belonging to such debtor, and take such action with respect to any individual indebtedness to the association which is larger than permitted by the bylaws as shall be best for the association in the sound discretion of the board. The board of directors shall also require a record of attendance to be kept, and shall require the secretary to make a report at the annual meeting of members covering the directors' attendance up to and including the last directors' meeting prior to the annual meeting showing the number of regular and special meetings of the board, and the number of regular and of special meetings attended by each member of the board designated by name.

(l) An association may provide in its bylaws limits within which the association may extend credit, either directly or indirectly, to any director, officer, or employee of the association.

(m) A person who is a director, officer or employee of the association may not be extended credit upon terms which are more favorable than the terms available to any other customer or member

of the association.

(n) The provisions of this chapter respecting the extension of credit to any director, officer, or employee; requiring the inclusion of such information in the association's annual reports to the secretary of state, and providing penalties for failure to comply therewith shall apply only to associations more than twenty-five percent (25%) of the gross income of which arises directly from the purchasing of supplies for their members and others. Any association with a lesser percentage of gross income arising from purchasing of supplies may adopt such provision in its articles of incorporation as originally filed or later amended. When so adopted, such provisions shall apply in every respect to such association and to its directors, officers and employees.

(Formerly: Acts 1925, c.20, s.11; Acts 1931, c.34, s.8; Acts 1939, c.151, s.6; Acts 1971, P.L.201, SEC.6.) As amended by Acts 1982, P.L.115, SEC.1.

IC 15-7-1-12

Election of officers

Sec. 12. The officers of an association shall consist of a president, one (1) or more vice-presidents, a secretary, a treasurer and such other officers as may be prescribed by the bylaws, each of whom shall be elected or appointed by the board of directors at such time, in such manner and for such terms as the bylaws may provide, except that the president and one vice-president shall be members of the board of directors, but a vice-president who is not a director shall not succeed to or fill the office of president. Any two (2) or more offices may be held by the same person, except that the duties of the president and secretary shall not be performed by the same person. The treasurer may be a bank or depository, and as such shall not be considered as an officer, but as a function, of the board of directors. In such case, the secretary shall perform the usual accounting duties of the treasurer, except that the funds of the association shall be deposited only as and where authorized by the board of directors. The bylaws may provide for the election of the president and one (1) vice-president by the members or their delegates, at the annual meeting of the members.

(Formerly: Acts 1925, c.20, s.12; Acts 1931, c.34, s.9; Acts 1971, P.L.201, SEC.7.)

IC 15-7-1-13

Membership certificate or shares of voting stock; issuance; payment; miscellaneous provisions relating to stock and shareholders

Sec. 13. (a) No certificate of membership or share or shares of voting stock shall be issued by an association until the membership fee or consideration for such share or shares has been paid in full, but promissory notes may be accepted in full or partial payment thereof. When a note is accepted in full or partial payment for a share of stock or membership fee, the stock or membership certificate shall

be held as security for the payment of such note. The acceptance of a note in full or partial payment of a share of stock or membership fee shall not affect the member's right to vote so long as he is not in default under the terms of said note.

(b) No members shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or on his subscription or agreement to purchase a share or shares of stock, including any unpaid balance on any note given in payment thereof.

(c) An association may provide in its articles of incorporation or bylaws that no member may own more than a fixed amount or percentage of its membership capital or a fixed percentage or number of shares of its outstanding voting stock.

(d) An association may provide in its articles of incorporation or bylaws that no member shall be entitled to more than one (1) vote regardless of the amount of capital invested in or number of shares of voting stock owned by such member.

(e) The voting stock of or membership in an association shall not be transferred to persons or associations who or which are not qualified to be members of an association organized or brought hereunder, and such restriction shall be set forth on every membership certificate and certificate of voting stock.

(f) The net earnings or savings of an association from its marketing and/or purchasing activities which are in excess of amounts needed to restore a deficit, to pay dividends on outstanding stock, or to establish or provide for additions to reserves or surplus, or both, shall be distributed, unless otherwise provided by the bylaws, to the patrons of the association on a patronage basis. If so provided in the bylaws, the distribution of the net earnings or savings from the marketing and/or purchasing activities which are in excess of amounts needed to restore a deficit, to pay dividends on outstanding stock, or to establish or provide for additions to reserves or surplus, or both, may be made at different rates for members and nonmembers, or may be restricted only to members, or only to members and those patrons with whom the association has contracted to pay patronage refunds, but in any event all such distributions shall be made on a patronage basis.

(g) If the reserves or surplus of an association are distributed at any time, they shall be distributed on a patronage basis as provided by the bylaws of the association.

(h) An association organized with capital stock may, at any time, unless otherwise provided in its articles of incorporation or bylaws, and except when the debts of the association exceed fifty percent (50%) of the assets, redeem, purchase or otherwise acquire its outstanding common stock at the book value thereof, as conclusively determined by its board of directors, but not to exceed par, and pay for it in cash within one (1) year thereafter.

(i) An association organized with capital stock may, at any time, unless otherwise provided in its articles of incorporation or bylaws, redeem, purchase or otherwise acquire its outstanding preferred

stock; provided, however, that in no event shall an association redeem or purchase its outstanding preferred stock when it is insolvent or when such redemption or purchase would render it insolvent, or would reduce the net assets of the association below the aggregate amount payable to the holders of stock having prior or equal rights to the assets of the association upon involuntary dissolution.

(j) Whenever the board of directors of an association, pursuant to authority expressly vested in such board by the articles of incorporation, shall, by resolution, determine and state the relative rights, preferences, limitations or restrictions of any class or classes of shares, or of any series of any class or classes, the association before it shall have the right to issue any of such shares, shall present in duplicate in the office of the secretary of state, accompanied by the fees prescribed by this chapter, a certificate signed by the secretary or assistant secretary, and verified under oath by the president or a vice-president of the association, setting forth the resolution so adopted and the time and manner of its adoption.

Upon presentation of such certificate, the secretary of state, if he finds that it conforms to law and the articles of incorporation of such association, shall endorse his approval on each copy thereof, and when all fees have been paid as required by law, shall file one (1) copy of the certificate in his office and issue his certificate of approval and filing, and forward to the association his certificate, together with the other copy of the certificate of the officers of the association bearing the endorsement of his approval; and the association shall have the authority to issue such shares from and after the issuance by the secretary of state of such certificate.

(Formerly: Acts 1925, c.20, s.13; Acts 1931, c.34, s.10; Acts 1949, c.167, s.5; Acts 1971, P.L.201, SEC.8.)

IC 15-7-1-14

Charges against officer or director; petition for removal; membership meeting; hearing; vote

Sec. 14. Any member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition signed by five per cent (5%) of the members, requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The director or officer, against whom such charges have been brought, shall be informed in writing of the charges previous to the meeting, and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses; and the person or persons bringing the charges against him shall have the same opportunity.

In case the by-laws provide for the election of directors by districts with primary elections in each district, then the petition for removal of a director must be signed by twenty per cent (20%) of the

members residing in the district from which he was elected. The board of directors must call a special meeting of the members residing in that district to consider the removal of the directors; and by a vote of the majority of the members of that district, the directors in question shall be removed from office.

(Formerly: Acts 1925, c.20, s.14.)

IC 15-7-1-15

Marketing contracts

Sec. 15. The association and its members may make and execute marketing contracts, requiring the members to sell, for any period of time, not over ten (10) years, all or any specified part of their agricultural products, or specified commodities, exclusively to or through the association, or any facilities to be created by the association. If they contract a sale to the association, it shall be conclusively held that title to the products passes absolutely and unreservedly except for recorded liens, to the association upon delivery; or any other specified time, if expressly and definitely agreed in the said contract. The contract may provide that the association may sell or resell the products delivered by its members, with or without taking title thereto; and pay over to its members the resale price, with or without pooling, actual or proportionate, after deducting all necessary selling, overhead and other costs and expenses, including interest on preferred stock, not exceeding eight per cent (8%) per annum and reserves for retiring the stock, if any; and other proper reserves; and interest not exceeding eight per cent (8%) per annum upon common stock; or after any other deductions there specified.

(Formerly: Acts 1925, c.20, s.15.)

IC 15-7-1-16 Repealed

(Repealed by Acts 1972, P.L.8, SEC.14.)

IC 15-7-1-16.1

Remedies for breach of contract

Sec. 16.1. Remedies for Breach of Contract. (a) The by-laws or the marketing contract may fix, as liquidated damages, specific sums to be paid by the members or stockholders to the association upon the breach of any provision of the marketing contract regarding the sale or delivery or withholding of products; and may further provide that the member will pay all costs, premiums for bonds, expenses and fees, in case any action is brought upon the contract by the association; and any such provisions shall be valid and enforceable in the courts of this state; and such clauses providing for liquidated damages shall be enforceable as such and shall not be regarded as penalties.

(b) In the event of any such breach or threatened breach of such marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance thereof. Pending the adjudication of

such an action, and upon filing a verified complaint showing the breach or threatened breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

(c) The provisions of paragraphs (a) and (b) of this section shall be applicable to and the rights and remedies shall be available to any corporation organized under any agricultural co-operative law of any other state of the United States heretofore or hereafter admitted to do business in this state.

(d) Growers of agricultural products who have signed any such marketing agreement with co-operative marketing associations organized hereunder shall be permitted to place crop mortgages upon their crops; but said crop mortgages and other liens shall be subordinate to the right of such association to take delivery of any such crops covered by the marketing agreement. In such cases, the mortgagee or lien holder shall serve proper notice upon the association and thereupon the proportionate proceeds due or payable to that grower shall become subject to such mortgages or liens in the place or instead of the crops originally covered thereby. If any deficiency remains at the end of the season, the grower shall be liable therefor, under the present practice; and the mortgagee or lienholder shall have the same rights against the grower for such deficiency as he may now possess.

(Formerly: Acts 1972, P.L.8, SEC.15.)

IC 15-7-1-17

Purchase of property or of stock in another firm with association stock

Sec. 17. Whenever an association, organized or brought under this chapter with capital stock, purchases the stock or any property, or any interest in any property of any person, firm or corporation or association, it may discharge the obligations so incurred, wholly or in part, by exchanging for the acquired interest, shares of its capital stock to an amount which at par value would equal the fair market value of the stock or interest so purchased, as determined by the board of directors. In that case the transfer to the association of the stock or interest purchased shall be equivalent to payment in cash for the shares of stock issued.

(Formerly: Acts 1925, c.20, s.17; Acts 1949, c.167, s.6.) As amended by P.L.1-1993, SEC.166.

IC 15-7-1-18

Biennial report; contents; form; disclosure of additional information; offense

Sec. 18. (a) During the month of April of every other year, each association organized or reorganized under this chapter shall prepare and file a biennial report setting forth the following information:

- (1) The name of the association and the state or country under whose law the association is incorporated.
- (2) The address of the association's registered office and the

name of the association's registered agent at that office in Indiana.

(3) The address of the association's principal office.

(4) The names and business or residence addresses of the association's directors, secretary, and highest executive officer.

(b) The biennial report of each association must be:

(1) made on a form prescribed and furnished by the secretary of state;

(2) signed by any current officer of the association or, in case the association is in the hands of a receiver or a trustee, by the receiver or trustee;

(3) verified and affirmed subject to the penalties for perjury; and

(4) filed in the office of the secretary of state, accompanied by the fees prescribed by law.

(c) Information in the biennial report must be current as of the date the biennial report is executed on behalf of the association.

(d) The first biennial report of the association must be delivered to the secretary of state in the second year following the calendar year in which the association was organized. Subsequent biennial reports must be delivered to the secretary of state every second year following the year in which the last biennial report was filed.

(e) If, upon receipt of such report, the secretary of state determines or has reason to believe that the association filing the report is not disclosing its true financial condition or is violating any of the provisions of this chapter, he may require the association to disclose all material facts by:

(1) submitting a duly verified audit bearing the certificate under oath of a qualified public accountant approved by the secretary of state;

(2) replying to interrogatories; or

(3) reporting under oath on any matters requested by the secretary of state.

(f) An officer or director of an association who knowingly distributes, publishes, or files with the secretary of state any written reports, certificate, or statement of the condition or business of the association that is false in any material respect commits a Class D felony.

(Formerly: Acts 1925, c.20, s.18; Acts 1931, c.34, s.11; Acts 1939, c.151, s.7; Acts 1971, P.L.201, SEC.9.) As amended by Acts 1978, P.L.2, SEC.1548; Acts 1982, P.L.115, SEC.2; P.L.11-1996, SEC.6.

IC 15-7-1-19

Application of other laws

Sec. 19. (a) Any provisions of law which are in conflict with this chapter shall not be construed as applying to the associations herein provided for.

(b) Any exemptions under any and all laws in effect on February 23, 1925, applying to agricultural products in the possession or under the control of the individual producer, shall apply similarly and

completely to such products delivered by its farmer members, in the possession or under the control of the association.

(Formerly: Acts 1925, c.20, s.19.) As amended by P.L.183-1983, SEC.134.

IC 15-7-1-20

Use of word "cooperative"

Sec. 20. No person, firm, limited liability company, corporation, or association, organized in this state after February 23, 1925, shall be entitled to use the word "cooperative" as part of its corporate or other business name or title for cooperative activities of producers of agricultural products, unless it has complied with the provisions of this chapter.

(Formerly: Acts 1925, c.20, s.20; Acts 1931, c.34, s.12.) As amended by P.L.183-1983, SEC.135; P.L.8-1993, SEC.245.

IC 15-7-1-21

Membership of association in other associations or corporations

Sec. 21. An association may organize, form, operate, own, control, or have an interest in, or own stock of, or be a member of any corporation or corporations, or association or associations, with or without capital stock, engaged in any activity in connection with the producing, marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, transportation, handling or utilization of any agricultural products, or the by-products thereof, handled by the association or its patrons or in any activity in connection with the manufacturing, assembling, selling, supplying, purchasing, hiring, transportation or use of supplies, machinery or equipment which the association or its patrons may use, or in the financing of any such activities or in performing or furnishing economic or educational service for those engaged in agriculture.

(Formerly: Acts 1925, c.20, s.21; Acts 1949, c.167, s.7.)

IC 15-7-1-22

Joint activities with other cooperatives

Sec. 22. Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations, agreements, and contracts and arrangements with any other cooperative corporation, association or associations, formed in this or in any other state, for the cooperative and more economical carrying on of its business or any part or parts thereof. Any two (2) or more associations may, by agreement between them, unite in employing and using or may separately employ and use the same personnel, methods, means and agencies for carrying on and conducting their respective business.

(Formerly: Acts 1925, c.20, s.22.)

IC 15-7-1-23

Existing cooperatives; qualification under this chapter

Sec. 23. Any corporation or association, organized under statutes in effect before February 23, 1925, may, by a majority vote of its stockholders or members, be brought under this chapter by limiting its membership and adopting the other restrictions provided in this chapter. The corporation or association shall make out in duplicate a statement signed and sworn to by its directors, to the effect that the corporation or association has, by a majority vote of the stockholders or members, decided to accept the benefits and be bound by this chapter, and has authorized all changes accordingly. Articles of incorporation shall be filed as required in section 7 of this chapter, except that they shall be signed by the members of the then board of directors. The filing fee shall be the same as for filing an amendment to articles of incorporation.

(Formerly: Acts 1925, c.20, s.23.) As amended by P.L.183-1983, SEC.136; P.L.1-1989, SEC.34.

IC 15-7-1-24**Civil penalty for inducing member to breach marketing contract**

Sec. 24. Any person or persons or any corporation whose officers or employees knowingly induce or attempt to induce any member or stockholder of an association organized hereunder or organized under any agricultural cooperative law of any other state of the United States and heretofore or hereafter admitted to do business in this state, to breach his marketing contract with the association, shall be liable to any such association aggrieved in a civil suit in the penal sum of one hundred dollars (\$100) for each such offense. In addition, said person or persons or said corporation shall pay to any such association a reasonable attorney's fee and all costs involved in any such litigation or proceedings at law.

(Formerly: Acts 1925, c.20, s.24; Acts 1935, c.284, s.3.)

IC 15-7-1-25**Repealed**

(Repealed by Acts 1978, P.L.2, SEC.1549.)

IC 15-7-1-26**Warehouseman or elevator proprietor inducing member to breach marketing agreement; civil penalty; injunction**

Sec. 26. Any person, firm, limited liability company, or corporation conducting a warehouse or elevator or other receiving place or otherwise dealing in any agricultural products within the state of Indiana, who solicits or persuades, or who permits any member of any association organized hereunder or organized under any agricultural cooperative law of any other state of the United States and heretofore or hereafter admitted to do business in this state, to breach his marketing contract with any such association by accepting or receiving such member's products for sale or for auction or for display for sale, contrary to the terms of any marketing agreement of which said person or any member of the said firm or

any active officer or manager of the said corporation, has knowledge or notice, shall be liable to any such association aggrieved in a civil suit in the penal sum of one hundred dollars (\$100) for each of such offense; and any such association shall be entitled to an injunction against such warehouseman or other person to prevent further breaches and a multiplicity of actions thereon. Pending the adjudication of such an action and upon filing a verified complaint showing the breach or threatened breach of any such marketing contract by reason of any acts set forth in this section, and upon filing a sufficient bond or undertaking, any such association shall be entitled to a temporary restraining order and a temporary injunction against said person, firm, limited liability company, or corporation. In addition, said warehouseman or other person, firm, limited liability company, or corporation shall pay to the association a reasonable attorney's fee and all costs involved in any such litigation or proceedings at law.

(Formerly: Acts 1925, c.20, s.26; Acts 1935, c.284, s.5.) As amended by P.L.8-1993, SEC.246.

IC 15-7-1-27

Exemption from monopoly and antitrust laws

Sec. 27. Any association organized hereunder or organized under any agricultural cooperative law of any other state of the United States and admitted before or after March 12, 1935, to do business in this state, shall be deemed not to be a conspiracy nor a combination in restraint of trade, or an illegal monopoly; nor an attempt to lessen competition or to fix prices arbitrarily or to create a combination or pool in violation of any law of this state; and the marketing contracts and agreements between the association and its members and any agreements authorized in this chapter shall be considered not to be illegal nor in restraint of trade nor contrary to the provisions of any statute enacted against pooling or combinations.

(Formerly: Acts 1925, c.20, s.27; Acts 1935, c.284, s.6.) As amended by P.L.183-1983, SEC.137.

IC 15-7-1-28

Application of corporation laws; exceptions

Sec. 28. The provisions of IC 23-1, and all powers and rights under that statute, shall apply to the associations organized or brought under this chapter, except where the provisions of IC 23-1 are in conflict with or inconsistent with the express provisions of this chapter.

(Formerly: Acts 1925, c.20, s.29; Acts 1939, c.151, s.8; Acts 1949, c.167, s.8.) As amended by P.L.183-1983, SEC.138; P.L.149-1986, SEC.44.

IC 15-7-1-29

Fees of secretary of state

Sec. 29. The secretary of state shall charge and collect, for the

benefit of the state, to be paid to the general fund of the state of Indiana, the following fees to wit:

(a) For filing with the secretary of state the articles of incorporation of any association organized or corporation reorganized under this chapter, which provides for the issuance of membership certificates only, and not for certificates of stock, five dollars (\$5).

(b) For filing with the secretary of state articles of incorporation of any association organized or any corporation reorganized under this chapter, which provides for the issue of capital stock, not in excess of five thousand dollars (\$5,000) of par value, five dollars (\$5). If the capital stock authorized to be issued by any such association shall exceed five thousand dollars (\$5,000), one cent (\$0.01) for each one hundred dollars (\$100) of additional par value.

(c) For filing with the secretary of state a certificate of increase of capital stock of any association for an increase of not more than five thousand dollars (\$5,000) of par value, five dollars (\$5), and for each one hundred dollars (\$100) of par value of increase above such amount, one cent (\$0.01).

(d) For filing with the secretary of state any certificate not herein specified, five dollars (\$5) each, regardless of the number of amendments contained in said certificate, except increases of capital stock upon which the fee shall be as hereinbefore provided.

(e) For filing biennial or special reports of associations, two dollars (\$2) for each filing, which shall be in addition to any and all other fees herein specified. The biennial report filing fee is one dollar (\$1) per year, to be paid biennially.

(f) For filing designation of or change of resident agent for any association, one dollar (\$1).

(g) For each certificate issued by the secretary of state, one dollar (\$1), and for each impression of the great seal of the state of Indiana, affixed by him on said certificate, fifty cents (\$0.50).

(Formerly: Acts 1925, c.20, s.30; Acts 1939, c.151, s.9.) As amended by P.L.183-1983, SEC.139; P.L.11-1996, SEC.7.

IC 15-7-1-30

Foreign cooperatives; application for admission

Sec. 30. Any nonprofit cooperative association organized before or after March 12, 1935, under the agricultural cooperative law of any state of the United States other than Indiana and not admitted to do business in this state before March 12, 1935, before transacting any business in this state shall present to the secretary of state at his office, accompanied by the fees hereinafter prescribed, a copy of its articles of incorporation, with all amendments thereto, duly authenticated by the proper officer of the state wherein it is incorporated, together with an application for admission which shall contain the same information as required in the articles of

incorporation of an association seeking to be incorporated under this chapter, together with such further information as the secretary of state may require, which shall include a statement of assets and liabilities as of a date not earlier than thirty (30) days prior to the filing of said application for admission, which information shall be submitted in triplicate originals upon such forms as may be prescribed by the secretary of state. Such application shall be signed and verified under oath by the president or vice president and secretary or assistant secretary of the association. The fees aforementioned in this section shall be the same fees which would be required if the applicant were seeking to be incorporated under this chapter, except that any fee calculated upon the basis of capital or capital stock shall be calculated upon the proportion of the same represented in this state; provided that such fee shall not be less than ten dollars (\$10).

(Formerly: Acts 1925, c.20, s.31; Acts 1935, c.284, s.7.) As amended by P.L.183-1983, SEC.140.

IC 15-7-1-31

Foreign cooperatives; certificate of admission

Sec. 31. Upon the presentation of the application for admission, the secretary of state, if he finds that the same conforms to law and that all patrons of such association who reside in Indiana will be entitled to receive substantially the same rights, benefits, and privileges therefrom as though the said association were incorporated under this chapter, shall indorse his approval upon each of the triplicate copies, and, when all fees required by law shall have been paid, shall file one (1) copy of the application, together with an authenticated copy of the articles of incorporation of the association, in his office, and shall issue to the association an original and a duplicate certificate of admission, accompanied by two (2) copies of the application bearing the indorsement of his approval, which certificate shall set forth the following:

- (1) The name of the association, the state where it was incorporated, and the location of its principal office in such state.
- (2) The character of business it is authorized to transact in this state.
- (3) The amount of its authorized capital stock, if any, and the amount thereof issued and outstanding.
- (4) The amount of fee paid for its admission.
- (5) The address of the corporation in this state.
- (6) The name and address of its resident agent in this state for service of legal process.

(Formerly: Acts 1925, c.20, s.32; Acts 1935, c.284, s.8.) As amended by P.L.183-1983, SEC.141.

IC 15-7-1-32

Admitted foreign cooperatives; rights, privileges, powers, and remedies

Sec. 32. Any nonprofit cooperative association organized before or after March 12, 1935, under the agricultural cooperative law of any state of the United States other than Indiana and admitted to do business in Indiana before or after March 12, 1935:

(1) shall have authority to transact in this state the business set forth in the certificate of such admission issued to it by the secretary of state; and

(2) shall:

(A) have the same rights, privileges, powers, and remedies at law or in equity possessed on March 12, 1935, by or conferred after March 12, 1935, upon; and

(B) be subject to the same liabilities, restrictions, duties, and penalties, in effect on March 12, 1935, or imposed after March 12, 1935, upon;

associations incorporated under this chapter.

(Formerly: Acts 1925, c.20, s.33; Acts 1935, c.284, s.9.) As amended by P.L.183-1983, SEC.142.

IC 15-7-1-33

Certificates of stock or membership; issuance; transfer

Sec. 33. Certificates of stock or of membership issued, transferred, redeemed and/or cancelled by any association shall be governed by this chapter and by the articles of incorporation and bylaws of such association.

(Formerly: Acts 1925, c.20, s.34; Acts 1939, c.151, s.10.) As amended by P.L.183-1983, SEC.143.